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House Bill _____
By _____

Senate Bill No.SB0428
By Rochelle

9-13-2

AN ACT to amend Tennessee Code Annotated,
Title 9, Chapter 13, Part 2, to permit
emergency financial aid to local
governments.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 9, Chapter 13, Part 2, is amended by deleting Part 2 in its entirety and substituting the following:

9-13-201. This part shall be known and may be cited as the "Emergency Financial Aid to Local Government Law of 1995."

9-13-202. The general assembly finds and declares that it is in the best interests of the citizens of this state that local governments be fiscally responsible and utilize sound financial management principles in serving its citizens. The general assembly further notes that there are certain conditions and circumstances in which a local government must have emergency technical and financial assistance if it is to better serve its citizenry. It is the intent of this part to provide procedures whereby a local government may acquire such emergency technical and financial assistance provided

and guaranteed by the state, thus enabling such local government to stabilize its financial condition and to meet its current operational and debt service costs.

9-13-203. As used in this part, unless the context otherwise requires:

(1) "Director" means the director of the division of local finance in the office of the comptroller of the treasury, or a person designated by such director;

(2) "Emergency technical assistance" means direction, oversight, management, and approval of all financial dealings and transactions of a local government by the director;

(3) "Loan guarantee" means the guarantee by the state, acting through the state funding board under the provisions of this part, of a loan to a local government from a lender other than the state; and

(4) "Local government" means any incorporated city or town, metropolitan government, or county including enterprise funds of such government entity.

9-13-204. In order to provide emergency technical and financial assistance to a local government, the state funding board is authorized to guarantee the payment of a loan made to a local government by another lender only under the following conditions:

(1) A majority of all members constituting the local government legislative body, by resolution, has requested a loan guarantee from the state funding board;

(2) The local government legislative body agrees in its resolution requesting a loan guarantee to accept the emergency technical assistance provided by the director and to be bound by the decisions of the director;

(3) The state funding board has determined that current local government revenues are insufficient to pay the annual debt service and costs of operation of such local government or local government service; and

(4) The local government legislative body shall submit a plan, subject to approval by the state funding board, for the efficient operations of government services including, where applicable, a plan for the consolidation of services within that local government. Such plan shall include local government tax revenues at least equal to one hundred percent (100%) of that local government's fiscal capacity as determined by the advisory commission on intergovernmental relations. If a local government has not levied taxes at this level, a plan to increase taxes to such level at the earliest practical date must be submitted to and approved by the state funding board. The board's guarantee of the payment of any loan under this part shall be conditioned upon the implementation of the plan required under this section.

9-13-205. The state funding board shall establish the terms and conditions of loan guarantees to local governments and may require such guarantees or security as it deems necessary to adequately secure the loans. The local government shall pledge the full faith and credit of the local government as security for any loan or loan guarantee. The local government shall also agree to pledge a sufficient amount of state-shared taxes to make principal and interest payments on the loan guaranteed by the state. The commissioner of finance and administration is authorized to withhold such sum or part of such sum from any state-shared taxes which are otherwise apportioned to the local government.

9-13-206. Notwithstanding the provisions of any other law to the contrary, the legislative body of any local government is hereby authorized to issue notes which may mature beyond the close of the fiscal year in which such notes are issued, when such notes are approved by the director and guaranteed by the state funding board.

9-13-207.

(a) Whenever a loan is guaranteed by the state funding board, the director shall, subject to such director's discretion, provide emergency technical assistance to such local government until such time as the local government has completely repaid any loans guaranteed by or owed to the state.

(b) The director shall provide emergency technical assistance under the guidelines of the statutes or private acts applicable to the local government and shall perform the duties prescribed by such statutes or private acts; provided, however, that if the applicable local government purchasing law authorizes emergency purchases, such emergency purchases shall only be made with the prior approval of the director.

(c) All authority for the implementation and administration of the laws set out in subsection (b) shall be vested in the director.

(d)

(1) Notwithstanding any other provision of the law, the director has total and complete authority over the budget, purchases and expenditures of such local government, including the budget, purchases and expenditures of the local government school system and enterprise funds.

(2) The commissioner of education shall appoint a qualified and responsible person to advise and assist the director on budgeting, accounting, purchasing, and expenditures of the school system of the local government.

(e) The director shall require such periodic information from a local government operating under the provisions of this part and require such audits as the director may deem necessary. The annual budget of each local government shall be submitted to the director at least three (3) weeks prior to its adoption.

The director shall determine whether or not the budget will be in balance and is fiscally responsible. No budget shall be adopted by the legislative body until it shall have been approved by the director. Such governing body shall adopt a budget at the first meeting of the legislative body in July of each year or prior to such meeting as required by any public or private act or as soon thereafter as practical, but in no event shall the budget be adopted later than the third Monday in September.

9-13-208. The state funding board shall publish a notice, in a newspaper of general circulation in any local government which is receiving emergency technical assistance pursuant to this part, that no purchase of or payment for goods, services or equipment or other matters shall be made by such local government without the prior approval of the director. Such notice shall be published at least once weekly for two (2) consecutive weeks. Such notice shall also be posted for two (2) consecutive weeks in five (5) conspicuous places in the local government, one (1) of which shall be the courthouse.

9-13-209.

(a) When a local government is granted a loan guarantee, any costs as determined and approved by the state funding board which are associated with providing the loan guarantee or technical assistance including, but not limited to, the services of the director and other personnel shall be borne by such local government; provided, however, that such costs shall not exceed five percent (5%) of the amount of the loan guarantee.

(b) The comptroller of the treasury shall provide any staff necessary to administer this part; provided, however, whenever possible and feasible, the director will utilize employees of such local government, county technical

assistance service, or municipal technical advisory service to assist in the administrative tasks.

9-13-210. The state funding board shall report to the senate and house finance, ways and means committees whenever a loan guarantee is requested and shall keep the committees advised whenever any subsequent action is taken.

9-13-211. Any official or employee of the local government, or of any institution or agency thereof, who fails or refuses to perform the duties required of such official or employee by this part, or who fails or refuses otherwise to conform to the provisions of this part commits a Class C misdemeanor and is subject to fine and to removal from office or position in accordance with the provisions of Title 8, Chapter 47.

9-13-212. Notes issued pursuant to the provisions of this part shall be issued in the manner provided by Chapter 21, Parts 1, 4 and 6 of this title. Notwithstanding the provisions of any other law to the contrary, any notes issued pursuant to this part may be used for operational expenses and extend past the current fiscal year.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

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